

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-04-7780.M5**

MDR Tracking Number: M5-04-2951-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 1-22-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the therapeutic exercises, joint mobilization, myofascial release, and office visits from 3/10/03 through 4/17/03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 3/10/03 through 4/17/03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 16<sup>th</sup> day of June 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division  
RLC/rlc

**NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** June 10, 2004

**AMENDED DECISION**

**MDR Tracking #:** M5-04-2951-01

**IRO Certificate #:** 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### **Clinical History**

According to the documentation provided for review, the claimant suffered bilateral knee injury when he reportedly fell from a height of about 20 feet from a platform that was not secured. The claimant reportedly was transported to a local emergency room where he was told he had no fractures. The claimant followed up with \_\_\_ on 9/3/02 and was diagnosed at that time with bilateral knee internal derangement and bilateral thigh sprain/strain. Physical therapy was recommended. The claimant underwent MRI evaluations of both knees and these reports were reviewed. The claimant appeared to have more effusion in the left knee than the right knee; however, the right knee appeared to be the most problematic for the claimant. It appears that modified duty was offered by the employer to the claimant at a desk type level of employment. The claimant saw \_\_\_ and it was stated on 9/23/02 that the claimant fell from a height of about 30 feet. I got the impression from the documentation that the exact height from which the claimant fell varied greatly. At any rate, the claimant underwent electrodiagnostic studies which were essentially normal for any type of injury related pathology. \_\_\_ felt the claimant had a medial meniscal tear on the right and a grade I patellar tendon tear as well. The claimant ended up undergoing arthroscopic knee surgery on 11/15/02 due to failure of conservative care. On 11/18/02 \_\_\_ recommended the initiation of **active** physical therapy. A 12/2/02 follow up with \_\_\_ revealed the claimant had been involved in only passive physical therapy and again \_\_\_ recommended that he participate in an active physical therapy program. \_\_\_ also repeatedly told the claimant that the type of chondral fracture or problem that he had would be considered permanent and would perhaps give him problems on a more permanent basis. The claimant underwent several designated doctor evaluations. The claimant's left knee did not appear to be a problem for him. On 1/7/03 the claimant appeared to demonstrate full range of motion of the right knee and there was no instability noted. The claimant underwent some active physical therapy beginning on at least 1/21/03 and continuing through 3/7/03. By 3/24/03 \_\_\_ felt the claimant mostly had residual pain from his grade III-IV chondromalacia at the medial femoral condyle. He recommended nonsteroidal anti-inflammatory drugs and a Synvisc injection in the future if needed. Several notes from \_\_\_ were reviewed. The claimant was noted to be functioning at the medium duty category as of a 4/8/03 FCE. A 7/18/03 \_\_\_ note revealed that the claimant had apparently failed a work hardening program and he was a candidate for a chronic pain management program. The claimant also saw \_\_\_ on occasion. \_\_\_ finally certified the claimant to be at MMI on 11/6/03 with 6% whole body impairment rating. An FCE of 11/6/03 revealed the claimant to be functioning at the heavy duty level and he was released to full duty work.

### **Requested Service(s)**

The medical necessity of the outpatient services including therapeutic exercises, joint mobilization, myofascial release and office visits from 3/10/03 through 4/17/03.

**Decision**

I agree with the insurance carrier that the services in dispute were not medically necessary.

**Rationale/Basis for Decision**

First of all, there are no daily physical therapy notes provided for review during the disputed dates of service. The actual services are extremely repetitive and actually exceed what would be considered reasonable and customary given the nature of the injury and any expected sequelae. Second of all, the documentation suggests that the claimant had received about 3 months of passive and active physical therapy prior to the listed dates of service in dispute. As of a 1/7/03 note the claimant's knee range of motion was noted to be full and his knee was stable. There was some atrophy noted about the right knee. The surgery was an arthroscopic surgery and fairly routine. The highly evidence based Official Disability Guidelines states that for this particular surgery the claimant should have been back to work at the manual duty level within 35 days post operative. \_\_\_\_ continued to recommend active physical therapy as of 11/18/02. The evidence based Official Disability Guidelines recommend about 8 weeks of physical therapy following this particular type of knee surgery. The claimant had undergone this amount of physical therapy prior to the beginning of the listed dates of service in dispute. More importantly, there were no physical therapy notes provided for review during the listed dates of service and the care rendered appeared more extensive than what would normally be required by the nature of the injury and any sequelae. Also, \_\_\_\_ stated to the claimant on several occasions that the type of chondromalacia and chondral injury the claimant sustained would continue to cause some problems and this was regardless of physical therapy. As of 3/24/03 \_\_\_\_ was also recommending anti-inflammatories and a possible future Synvisc injection if needed. He was no longer recommending physical therapy at that time.